

This letter discusses the application of Service Occupation Tax to sales of advertising in a magazine. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

January 29, 2004

Dear Xxxxx:

This letter is in response to your letter dated May 13, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This is to request a ruling stating my company's sales and use tax liability in the state of Illinois. The company contracts with chambers of commerce in Illinois to produce magazines, which contain information about the community. The company generates revenue from the advertising placed in the magazine.

The company produces these magazines by sending a sales agent to the community, who then sells advertising space in the magazine to chamber business members. The business members send the company the advertisement or materials needed to create the advertisement. The ads, along with editorial content and photos, are digitally placed in a magazine format. The digital information is then sent to a printer located out of state for printing and shipping to the chamber of commerce or business member.

The company does not charge the chamber of commerce for the production or the shipping of the magazine. All revenue is generated through the sales of advertising space or charging the business members for freight if they want magazines shipped to them. They are not charged for the tangible product, but the sales agents may trade advertising space for hotel rooms and auto rentals to be used during the sales process.

In multi-service situations, such as the one that you have described, the tax liabilities of each party can be affected by many factors, including how other parties handle their tax liabilities. Without specific and complete information about all of the parties, a specific answer is impossible. Therefore, we can only provide the following general information.

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (2000 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3.

Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal services. Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. For your general information we refer you to 86 Ill. Adm. Code Part 140 regarding sales of service and Service Occupation Tax. The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon how the serviceman is classified. There are four ways that the tax can be calculated: (1) separately stated selling price; (2) 50% of the entire bill; (3) Service Occupation Tax on cost price if they are registered de minimis servicemen; or, (4) Use Tax on cost price if the servicemen are de minimis and are not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
Associate Counsel

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